

UNITED STATES DISTRICT COURT

for the

District of South Carolina

United States of America

v.

SOLOMON NKWOCHA

Case No. 2:14 MJ 157

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of Unknown and 11/22/14 in the county of Charleston in the
 District of South Carolina, the defendant(s) violated:

Code Section

Offense Description

- a. 18 U.S.C. § 922(g)(6)
- b. 18 U.S.C. § 371
- c. 22 U.S.C. § 2778

- a. Providing a false statement to a federally licensed firearms dealer
- b. Criminal Conspiracy
- c. Arms Export Control Act

This criminal complaint is based on these facts:

SEE ATTACHED AFFIDAVIT

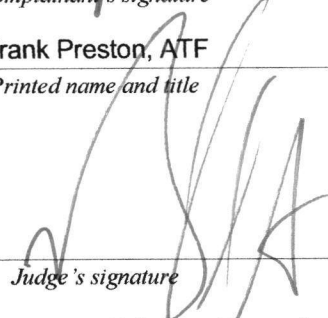
☒ Continued on the attached sheet.

Sworn to before me and signed in my presence.

Date:

November 22, 2014
Pursuant to Rule 4.1, FR Cr.P.City and state: Charleston, SC
 11-24-14
 Complainant's signature

 Frank Preston, ATF
 Printed name and title


 Judge's signature

 Hon. Bristow Marchant, U.S. Magistrate Judge
 Printed name and title

AFFIDAVIT

I, Frank J. Preston, being duly sworn, hereby depose and state as follows:

Background

I am a Senior Special Agent for the United States Department of Justice, Bureau of Alcohol, Tobacco Firearms and Explosives, (ATF), with twenty five (25) years of experience conducting complex criminal investigations involving violations of firearms, explosives, narcotics, gang, and violent crime/criminal conspiracies associated with such criminal activity. Information contained in this affidavit details facts and circumstances gathered during the course of this investigation which are known personally by me, provided to me via witness statements, document review/analysis, or were told to me by other federal, state, or local law enforcement professionals. As a result of my training and experience as an ATF Special Agent, I am familiar with federal criminal law and know that the following statutes potentially apply to information contained within this affidavit:

18 U.S.C. § 922(a)(6) - Providing a false statement to a federally licensed firearms dealer.
18 U.S.C. § 371- Criminal Conspiracy
22 U.S.C. § 2778 – Arms Export Control Act.

This affidavit is intended to show only that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter. I have set forth only the facts that I believe are necessary to establish probable cause that the above mentioned violations have been committed. Where statements of others are set forth in this affidavit, they are set forth in substance and in part. The events described in this affidavit occurred on or about the dates provided herein.

Facts

1. Purchase of 21 Firearms

On or about October 28, 2014 Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) Special Agent Frank Preston (affiant) received information from the North Charleston Police Department regarding a suspicious firearm transaction. The transaction involved the sale of twenty (20) I.W.I. Tavor, 5.56 caliber, semi-automatic rifles, and one Springfield 9mm pistol, occurring at Gunslingers Trading Post (Gun Shop), a federally licensed firearms dealer (FFL). The individual associated with the sale was said to be SOLOMON NKWOCHA of 4605 Club Course Drive, North Charleston, South Carolina.

Agents from the ATF spoke with the Gun Shop owners, operators, and or employees associated with the transaction. Thane Hollington is the owner of the business, and Brook Hollington and Scott Warthan are employees. All are responsible parties authorized by the FFL to conduct firearms transactions. FFL records confirmed that Nkwocha did in fact

purchase twenty (20) I.W.I. Tavor, 5.56 caliber, semi-automatic rifles, and one Springfield 9mm pistol, receiving them on October 23 and 24, 2014.

Federal law requires the purchaser of any firearm to complete ATF Form 4473, Firearms Transaction Record, when acquiring a firearm from an FFL. This form is the official transfer record that documents the transfer of the purchased firearm(s) from the FFL to the purchaser. In the firearms transaction on October 23, 2014, Nkwocha completed and signed the ATF Form 4473 Firearms transaction record indicating that he was the actual purchaser of twenty (20) I.W.I. Tavor rifles and a Springfield handgun. Section 11a of the ATF Form 4473 Firearms transaction record asks the transferee (Buyer) "are you the actual transferee/buyer of the firearms(s) listed on this form?" Nkwocha answered "Yes" to this question. A copy of the record was obtained by ATF and review of the document describes the transferred firearms as follows:

Twenty (20) Israel Weapons Industries (IWI), Tavor Model IDF16, 5.56 caliber, semi-automatic rifles and one (1) Springfield Arms Brand, Model XD, 9mm semi-automatic pistol serial number XD953677.

The form identifies the serial numbers for the Tavor rifles as follows:

TOO23270, TOO23971, TOO23284, TOO23277, TOO23961, TOO24132,
TOO24298, TOO24125, TOO24110, TOO24098, TOO24111, TOO23965,
TOO24703, TOO24072, TOO24131, TOO24120, TOO24138, TOO24140,
TOO24093, TOO23970.

The form identifies the pistol associated with the transaction as a Springfield Arms Brand, Model XD, 9mm semi-automatic pistol bearing serial number XD953677.

The FFL stated Nkwocha presented a South Carolina Driver License having a photo depicting Nkwocha, and the FFL confirmed that a physical comparison/verification of Nkwocha's appearance to the license at the time of purchase confirmed the gun purchaser matched the photo shown on the license.

According to the owner and employees of the FFL / Gun Shop, Nkwocha made several visits to the storefront between about October 6, 2014 until the date he purchased the 21 firearms. During the visits, Nkwocha spoke with owner Thane Hollington, sales clerk Brook Hollington and sales clerk Scott Warthan. Nkwocha mentioned he was from Nigeria and he moved to the United States of America thirty (30) years ago. Nkwocha reportedly stated he is a pastor or minister of a religious organization that is upset with the Nigerian government for the lack of help in rescuing kidnapped students in Africa. Nkwocha also said he wanted a "close combat style" rifle rather than a long range rifle and commented that the referenced firearms would ultimately be shipped to Africa to help fight a "war." Nkwocha also stated that the funds to purchase the aforementioned firearms were being wired to him (Nkwocha) from Africa.

Nkwocha ultimately purchased the firearms, paying approximately fifty thousand dollars (\$50,000.00) in cash for them. According to FFL, while negotiating the transaction Nkwocha stated he received the funding for the firearms from a third party located in Nigeria. It was reported that Nkwocha said the third party wired the funds from Nigeria to Nkwocha in the United States.

FFL stated that Nkwocha was observed loading and subsequently transporting the above referenced firearms into a gray colored, older model, Mercedes Benz. Computerized records search of the South Carolina Department of Motor Vehicles (SCDMV) revealed Solomon Nkwocha has the following vehicles registered to him at 4605 Club Course Rd, Coosaw Creek Subdivision, North Charleston, South Carolina:

One (1) 1999 Mercedes, E32, bearing license plate number AUH164 (TARGET VEHICLE).

One (1) 2001 Toyota Sequoia, bearing license plate number FIQ368.

One (1) 2001 Toyota 4 Runner, bearing license plate number BEF628.

One (1) 2001 Honda Civic bearing license plate number FYI881.

One (1) 2003 Nissan Xterra bearing license plate number KMU718.

On November 7, 2014, surveillance at Nkwocha's residence, identified as 4605 Club Course Drive, North Charleston, South Carolina, revealed a gray colored Mercedes Benz bearing South Carolina license plate AUH164 parked in the driveway. The vehicle is consistent with the description of the vehicle provided by FFL Gun Shop employees as the vehicle Nkwocha drove during the purchase of the I.W.I. Tavor rifles.

2. Shipment History

HSI records show Nkwocha was born in Nigeria April 17, 1960. Nkwocha entered the United States on October 11, 1985 and was naturalized on January 9, 1990. Additionally, HSI records show Nkwocha has made thirteen shipments to Nigeria since 2001 and most recently on or about October 5, 2014. The most recent records show Nkwocha shipped two (2) motor vehicles described as a 2003 Mazda MPV and a 1998 Nissan Frontier. The consignee listed on shipping records is Olaniyan John Olasunbowith, of PKW 229 Akbest Motors, Apapa, Logas, Nigeria. The vehicles were driven onto a motor vessel and not stored in containers.

Information received from various law enforcement sources specifically address the common practice of unlawfully exporting firearms and smuggling firearms to the African Continent, from the United States, by concealing them within motor vehicles or household goods related shipments. This is consistent with information uncovered during this investigation, showing Nkwocha ships vehicles and household goods to Nigeria.

NCIS SA Andrzej Lewandowski learned that Nkwocha is a civilian employee with the Department of Defense United States Navy, Space and Naval Warfare Systems Center Atlantic (SPAWAR). According to SA Lewandowski, Nkwocha is employed as an engineer and currently maintains a top secret level security clearance. SA Lewandowski advised that maintaining this type of security clearance requires Nkwocha to report any and all contacts

with foreign nationals and declare any commercial business interests or holdings involving foreign countries. SA Lewandowski also advised Nkwocha has submitted and must certify via United States Government Standard Form (SF) 85 and 86 to the United States government the above contacts or interests, and had not done so. NCIS further indicated that Nkwocha's salary is approximately \$102,000.00. Any outside employment, such as the exporting of vehicles or firearms, would have to be declared on the SF 85 / 86, and Nkwocha has not reported any such outside income.

On or about October 29, 2014 Customs and Border Protection discovered that two vehicles had been exported by Nkwocha from the Port of Savannah GA. The ship, Grande Marocco, was scheduled to arrive at a port in Cotonou Nigeria on October 30, 2014 and at Lagos Nigeria. Based on statements made by Nkwocha to the FFL during the purchase of 20 assault rifles, SA Hardin (HSI) contacted the HSI Attaché office and requested that both vehicles be inspected by the host country.

On November 4, 2014, SA Hardin (HSI) was notified that the host-nation only took off one (1) vehicle from the ship, the other remained onboard enroute to Lagos, its destination. The vehicle searched at Cotonou was reportedly negative for any contraband or illegally exported weapons. The second vehicle offloaded at Lagos was not searched by the host-nation.

On November 7, 2014, ATF obtained a federal warrant to place a GPS tracking device on Nkwocha's Mercedes Benz (S.C. License Plate AUH164).

On or about November 9, 2014, Customs and Border Protection discovered that two vehicles were being exported from the port of Jacksonville, Florida by a Victor Nkwocha. Both of these vehicles were searched due to the destination being Nigeria and Victor having the same last name and appear to have a financial history connection with Solomon Nkwocha based on financial records reviewed. The search of these two vehicles was negative for contraband or illegally exported weapons.

A consolidated shipment was discovered being exported from the port of Savannah GA, scheduled through Savannah to Ghana with four vehicles, used auto parts and personal effects. Export date was November 18, 2014 by Gymbros Auto Impex. This consolidated shipment was examined on November 18-19, 2014 with negative results for the presence of contraband or illegally exported firearms.

3. Second Gun Purchase Inquiry

On November 9, 2014, ATF was advised by FFL Gun Shop that Nkwocha had inquired about the price of a SAKO TRG 42 sniper rifle in .338 caliber, fully equipped with scope and bipod. FFL Gun Shop stated that Nkwocha wanted 10 of these rifles.

On November 10, 2014, ATF and SA Hardin (affiant) set up surveillance within the Gun Shop's store and monitored Nkwocha's conversation with the gun dealer about the purchase of the SAKO sniper rifles.

According to that surveillance and other information obtained, at approximately 3:07 pm on November 10, 2014, Nkwocha entered the Gun Shop and talked with the owner about purchasing 10 sniper rifles manufactured by SAKO, in .338 caliber. The total price would be approximately \$93,000.00, including scopes and bipods.

During the conversation Nkwocha spoke about the bombing that took place in Nigeria that killed 47 school children. The bombing was reportedly conducted by the Boko Haram group, and reported in the news the morning of November 10, 2014. Nkwocha stated that the Christians and the Muslims in Nigeria are fighting and the weapons he had purchased, and was purchasing, were intended to be shipped to the Christians in Nigeria to help fight the Muslims. Nkwocha said that the Muslims were in the government of Nigeria and the Christians were the good guys.

The owner of the Gun Shop told Nkwocha that Nkwocha needed to check with the State Department to get a license to ship the guns out of the United States. The owner showed Nkwocha the ATF website and gave Nkwocha a number to call for more guidance. Nkwocha looked at the sight with the gun owner and said that he had seen on the ATF website where a license was not required under the GCA (gun control act) but the owner showed Nkwocha that he needed to read further down on the sight to see what was required and the Gun Shop owner read the requirement to Nkwocha and told Nkwocha that he needed to contact the State Department.

On October 31, 2014, SA Hardin (affiant) sent a license history request (2014-11-12-ICE-04309) to the U.S. State Department, Directorate of Defense Trade Controls (DDTC) for any license that Nkwocha had applied for that would permit the legal export of firearms. Based upon a phone conversation with SA John Ward (HSI), assigned to serve as the Liaison to the U.S. State Department Directorate of Defense Trade Controls (DDTC) no license history or request exist for Nkwocha at the time of this affidavit.

The gun store owner asked Nkwocha if he needed any cases to protect the guns when they were shipped and to keep them from being stolen. Nkwocha said that "they" had to bribe Customs over there.

Nkwocha said the first order had been placed into a storage unit "on base" for two days before they go out. Then they were placed inside a container and had already left on a ship. Nkwocha said that he did not keep the weapons at his home. Nkwocha told the gun owner that "they" wanted more than one (referring to the sniper rifles) and Nkwocha was particularly interested in the Law Enforcement (LE) version of the Sako sniper rifle. The Gun Shop owner told Nkwocha that he was not sure if he could get the LE version. Nkwocha left the store and the Gun Shop owner called Nkwocha and told Nkwocha that he would be unable to get the LE version. According to the Gun Shop owner Nkwocha said that was alright, he would take the SAKO rifles that were not LE.

On November 10, 2014 at approximately 8:30 pm Nkwocha was tracked, using a court authorized tracking device, to the old Charleston Navy Base location of his SPAWAR office

space which is next door to Neal Brothers Exports, a container shipment company. A check with Neal Brothers Exports revealed no containers, storage or exports associated with Nkwocha.

On November 12, 2014, ATF informed SA Hardin that Nkwocha had contacted the Gun Shop owner saying that he, Nkwocha, had found an gun dealer in Pennsylvania that purchased the SAKO rifles for \$2,000.00 less than the price the Gun Shop had quoted. The Gun Shop owner told Nkwocha to have that Pennsylvania dealer send the Gun Shop the guns after Nkwocha purchased them from the Pennsylvania dealer. Nkwocha responded that he wanted to purchase the guns from the Gun Shop, and to see what the owner could work out.

Customs and Border Protection discovered that Solomon Nkwocha was exporting two vehicles out of the Port of Savannah Ga, destined for Nigeria on or about November 18, 2014. Both of those vehicles were searched on November 18, 2014 with negative results for contraband or illegally exported weapons.

4. Port Location

Cell tower location information was obtained by a federal court ordered pen register for Nkwocha's cell phone. The tower location information revealed that one hour after picking up the 17 guns on October 22nd, Nkwocha cell phone was using a cell tower located within the vicinity of the old Charleston Navy Base, location of Nkwocha's SPAWAR office space. Nkwocha had told Gun Shop employees that he did not keep the guns in his house, but in a secure storage area for two days before being placed on a ship. During this same timeframe the NNS Okpabana was also docked within this vicinity. A search of possible locked areas at SPAWAR did not reveal any of the guns.

On November 16, 2014, the tracking unit on Nkwocha's vehicle placed it on a pier located on the Federal Law Enforcement Training Facility (FLETC). A check of that pier revealed that the NNS Okpabana was moored at pier P. The NNS Okpabana, hull number F-93, is a Nigerian military flagged Navy vessel and Hamilton-class high endurance cutter which formerly served with the U.S. Coast Guard as USCGC Gallatin (WHEC-721). Gallatin completed its final patrol in 2013 and was decommissioned in 2014, before being transferred to the Nigerian Navy.

The court ordered global positioning system (GPS) has placed Nkwocha's vehicle at pier P several times since November 16, 2014. Nkwocha has acquired a TWIC card which allows him to have access to this pier and gives him access through the FLETC gate security.

On November 18, 2014, HSI personnel talked with FLETC security site manager, Johnathan Thorpe, and discovered that the Captain of the Ship, NNS Okpabana, has a driver that drives a silver Ford Taurus. A property sign in sheet was researched and discovered the name Joseph Nkwocha, who had been signed in by a member of the Nigerian ship crew. According to the log, Joseph Nkwocha was driving a Ford Taurus, South Carolina tag number KIY 938. Department of Motor Vehicle checks reveal that this tag number is registered to Nkwocha, Joseph Onyewuchi, 4605 Club Course Dr., North Charleston, SC.

5. Trash Pulls

On November 5, 2014, HSI SA John Hardin, ATF SA Preston and NCIS SA Lewandoski conducted a trash pull operation at the Nkwocha residence located at 4605 Club Course Drive, Coosaw Creek Subdivision, North Charleston, South Carolina. The term "trash pull operation" refers to an investigative technique used to collect suspect intelligence and evidence of criminal activity. The technique involves law enforcement collecting trash after it has been abandoned by residents or occupants of a particular dwelling or structure. During this particular trash pull operation investigators observed the trash receptacle situated at the foot of the driveway. A number of plastic trash bags were collected from the trash can and transported to a nearby location for examination. During the exam investigators located a number of documents relating to computer searches for used sport utility vehicles, used industrial sized generators, financial documents from Wells Fargo bearing the name Solomon Nkwocha and Patience Nkwocha, purchase receipts from local grocery stores and an Atlanta Journal Newspaper dated October 27, 2014. This operation confirms Nkwocha keeps and stores financial documents and records which are consistent with previous export shipments inside his residence and a computer is present at the residence which is being used to query items consistent with previous export shipments made by Nkwocha.

On November 19, 2014 another "trash pull" operation was conducted on Nkwocha's residence, 4605 Club Course Drive, North Charleston, South Carolina. The garbage can was placed at the side of the road with two black garbage bags placed on the ground alone side of the trash can. Several bags were taken from within the trash can and all were transported to a secure location for examination.

Discovered within the discarded trash was a print out from a web search on web page www.autoweapons.com with a picture of a mini-gun. The supplier/manufacture is located in New Mexico and the advertisement states that the manufacturer has a type 07 FFL/SOT (class 2 gun manufacturer).

Also discarded was a piece of paper with numbers being subtracted from each other, almost like a budget. Affiant believes the numbers were in reference to money amounts since at least one set of figures was in the millions of dollars, and two of the calculations were close to the amounts used to purchase the 20 assault rifles, and close to the currently negotiated price of the sniper rifles that Nkwocha has inquired about.

A typed email/correspondence was also discovered from Stalwart Enterprises LLC, which has a location in Mount Pleasant, South Carolina. The email/correspondence stated: "Good Morning, we look forward to the Reception for the Ambassador. We were just checking to see when the revised invitations (time change) were sent out. Is it possible to view the list of those whom to invitations were sent, so that we may also be able to follow up? Thanks again for your cooperation, David A. Orner Stalwart Enterprises LLC" no date attached. Stalwart Enterprises LLC appears to provide real time trackers, and personal protection devices.

6. Second Gun Purchase Order

On November 19, 2014 at approximately 12:08, Nkwocha was observed entering the Gun Shop. Nkwocha had placed a call to the owner of Gun Shop prior to his arrival, stating he was on his way. The owner had been instructed by agents to tell Nkwocha to place a call to the Gun Shop if Nkwocha was coming in to purchase more firearms, so he could insure the Gun Shop owner would be present.

While Nkwocha was inside the Gun Shop he placed an order for (4) four Sako sniper rifles, approximately (5) five 9 mm handguns, and an amount of ammunition for the sniper rifles. Once Nkwocha received a price he went out to his Mercedes, already mentioned earlier, and was observed talking on a cell phone. Nkwocha then re-entered the gun shop and gave the owner of the Gun Shop approximately \$38,000.00 in cash for the gun order.

Nkwocha was asked by an employee of the Gun Shop what Nkwocha was going to do with the weapons. Nkwocha said that he was going to send them to Africa and that he placed them into a container himself.

CGIS conducted inspection of several storage sheds located on pier P, which is the pier the NNS Okpabana is moored. Those storage units were negative for any contraband or weapons being stored for illegal exports. CGIS also contacted Detyen's shipyard, which conducted work on the NNS Okpabana. Detyen's representative stated that there were no storage containers within their yard associated with SPAWAR or the NNS Okpabana.

On November 20, 2014, a ship's crew roster for the NNS Okpabana was obtained from the United States Coast Guard. On the crew list was the name J Daloeng, a Lieutenant Commander for the Nigerian Navy assigned to the NNS Okpabana currently moored at the FLETC pier P. An examination of shipping records showed that on July 3, 2014, Solomon Nkwocha filed a shipper's export declaration (SED) as the U.S. principal party, listing his home address as 4605 Club Course Drive, North Charleston, SC. The SED was for a 2005 Toyota Highlander, VIN# JTEGD21A850131654, to be exported to Lagos Nigeria on July 19, 2014 to a Lieutenant Commander G. M. Daloeng.

Nkwocha maintains and official government passport, a personal passport, and Homeland Security indices checks revealed that that Nkwocha also possesses a Nigerian passport, which he used to travel to Nigeria in 2013.

Affiant researched travel by Nkwocha and recognized a stop at Money Man Pawn Shop, 116 South Goose Creek Blvd, Goose Creek, SC, that occurred on November 19, 2014. Affiant contacted the pawn shop and learned that on November 19, 2014, Nkwocha put two Hi Point 9mm firearms on law-away and told them he would return on Friday, November 21, 2014 or Saturday, November 22, 2014, to complete the purchase. Investigators have also discovered that an additional Hi Point 9mm pistol was purchased by Nkwocha on October 6, 2014 at the Money Man Pawn Shop at 5251 Dorchester Rd., North Charleston, SC.

7. Stop and Interview

On November 21, 2014, the Sako rifles were shipped to the Gun Shop. Agents placed an electronic tracking device on several of the shipped rifles, and used the tracker to identify the guns' movement, all of which were in public places and observed by physical surveillance with regard to Nkwocha. In the afternoon of November 21, 2014, Nkwocha took delivery of the guns from Gun Shop. Nkwocha was physically surveilled, and travelled around the North Charleston area. Nkwocha was observed stopping his vehicle at one point and moving the guns around inside the car.

On the evening of November 21, 2014, Nkwocha proceeded to FLETC, where he passed two separate security gates, checking in with the respective gate keepers. Nkwocha then proceeded to drive towards the pier where the NNS Okpabana is moored. Around 7:00 p.m. Nkwocha's vehicle was stopped approximately one quarter mile from the NNS Okpabana, while headed in the vessel's direction. Nkwocha was then taken into custody.

Once in custody, Nkwocha was read his Miranda rights and agreed to talk with agents. Nkwocha stated that he was purchasing guns for around five people who were on the NNS Okpabana. Nkwocha stated that his sister had introduced him to the individuals, and that he made a profit of around \$200.00 to \$300.00 for each gun he sold them. Nkwocha further stated that he had sold 27 guns to those on the ship, and that those 27 guns were currently on the NNS Okpabana. The five Sako firearms, and five other firearms, were located in Nkwocha's vehicle. Nkwocha stated that the ten guns he had in his car were intended for the NNS Okpabana and that he was delivering them to the ship at the time he was stopped. Nkwocha was able to give names for the five individuals he sold the guns to. Those individuals are currently under investigation, and efforts are being made to recover the 27 firearms from the NNS Okpabana.

Based on the above facts and circumstances, Affiant requests that a complaint and arrest warrant be issued for SOLOMON NKWOCHA for the following federal violations:

- 18 U.S.C. § 922(a)(6) - Providing a false statement to a federally licensed firearms dealer.
- 18 U.S.C. § 371- Criminal Conspiracy
- 22 U.S.C. § 2778 – Arms Export Control Act.

REQUEST FOR SEALING

I further request that the Court order that all papers in support of this application, including the complaint, affidavit and arrest warrant, be sealed until further order of the Court. These documents discuss an ongoing criminal investigation that is neither public nor known to all of the targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may seriously jeopardize that investigation.

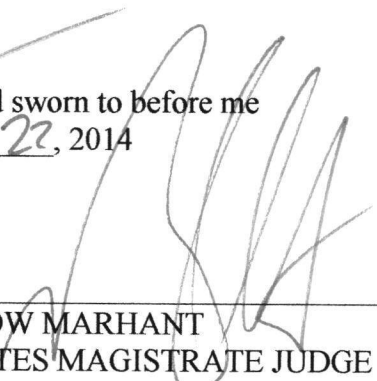
This affidavit has been reviewed by Assistant United States Attorney Nathan Williams.

Respectfully submitted,



Frank Preston
Special Agent, ATF

Subscribed and sworn to before me
on November 22, 2014



HON. BRISTOW MARHANT
UNITED STATES MAGISTRATE JUDGE

Pursuant to Rule 4.1, F.R.C.P.